

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,

Debtor.

Chapter 9

Case No. 13-53846

Hon. Steven W. Rhodes

**OFFICIAL COMMITTEE OF RETIREES' EMERGENCY MOTION
FOR LEAVE TO PURSUE LIMITED DISCOVERY AFTER THE
COURT'S APRIL 11 DISCOVERY DEADLINE**

The Official Committee of Retirees of the City of Detroit, Michigan ("Retirees") hereby requests leave to serve limited discovery of events that transpired after the Court's April 11, 2014 written discovery deadline. The Retirees have asked the City to voluntarily disclose this information, but have received no response to its requests.

In support of its request, the Retirees state the following:

1. All iterations of the City's disclosure statement have detailed an alleged history of malfeasance by the General Retirement System and the Police and Fire Retirement System (the "Retirement Systems"). (*See* Doc. 2709 at 48; Doc. 3382 at 95).

2. For example, in its Second Amended Disclosure Statement, the City asserts that the Retirement Systems have been harmed by "fiduciary misconduct" costing the Retirement Systems—and therefore retirees' pensions—at least \$84 million and perhaps hundreds of millions of dollars. (Doc. 4141 at 106). The City further states that the misconduct included "bribes," a "kickback conspiracy," and other misconduct that "collectively conspired to defraud current and retired employees of the City of their right to the honest services of Retirement Systems officials free from bribery and corruption." (Doc. 4141 at 106). The City states that this misconduct "contributed, in a not insignificant way, to the underfunding of the Retirement Systems." (*Id.*).

3. These statements by the City suggest that substantial claims might exist, by which the City could potentially recover hundreds of millions of dollars. (*See* Doc. 4140 at 12, 16 (City's proposed cuts to pension benefits)).

4. Nevertheless, the Second Amended Plan of Adjustment does not disclose any attempt by the City to pursue any mechanism for pursuing this recovery.

5. Furthermore, reports emerged after the discovery cut-off that the City reached settlements with the Retirement Systems. (*See, e.g.,* Chard Livengood, *Detroit's changing numbers in bankruptcy deal to face scrutiny*, The Detroit News, April 17, 2014;¹ Joe Guillen, *Detroit pension board endorses deal to cut benefits, eliminate COLA*, Detroit Free Press, April 16, 2014.²).

6. Once again, however, the Amended Disclosure Statement and Amended Plan provide no details of these alleged settlements.

7. The City's retirees will soon be asked to vote on the City's proposed Plan and to thereby accept meaningful cuts to their pensions. Those retirees have the right to understand the full terms of the City's Plan, including the details of any settlement with the Retirement Systems, and the basis by which the City determined not to pursue recovery from the Retirement Systems.

8. If the City has negotiated deals to release the Retirement Systems from liability for the hundreds of millions of dollars in potential claims arising from the alleged misconduct of Retirement Systems' officials, then the City's creditors have a right to understand the nature and scope of those releases and settlements.

¹ Available at <http://www.detroitnews.com/article/20140417/METRO01/304170040/Detroit-s-changing-numbers-bankruptcy-deal-face-scrutiny> .

² Available at <http://www.freep.com/article/20140416/NEWS01/304160130/Detroit-pension-board-general-cut> .

9. Disclosure of the terms of these settlements is also necessary to evaluate the fairness of the proposed Plan.

10. Representatives of the Retirees have repeatedly asked the City to disclose the terms of the settlements, but the City has provided no response.

11. Per the Court's Third Amended Order Establishing Procedures, Deadlines and Hearing Dates Relating to the Debtor's Plan of Adjustment, the last day to serve written discovery regarding plan confirmation was April 11, 2014. The settlements were not reported until the week after the discovery cut-off. Thus, it was impossible to propound such requests before the deadline.

WHEREFORE, the Retirees respectfully move the Court for an Order granting Retirees leave to serve:

- a. one document request upon the City seeking the terms of the settlement with each retirement system, and
- b. one document request upon the City seeking documents that support (or undercut) each such settlement, and
- c. one document request upon the City seeking documents that support (or undercut) the City's allegations of retirement system malfeasance.

Dated: April 17, 2014

Respectfully submitted,

By: /s/ Carole Neville

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Attorneys for the Official Committee of Retirees of the City of Detroit, Michigan

Summary of Attachments

Pursuant to Local Rule 9014-1(b), please note the following documents are attached to this Motion:

- Exhibit 1: Proposed Form of Order
- Exhibit 2: Notice of Motion by Official Committee of Retirees' Emergency Motion for Leave to Pursue Limited Discovery After the Court's April 11 Discovery Deadline and Opportunity to Object
- Exhibit 3: None [No brief required.]
- Exhibit 4: Certificate of Service
- Exhibit 5: None [No affidavits filed in support of this Motion.]
- Exhibit 6: None [No documentary exhibits filed in support of this Motion.]

Exhibit 1: Proposed Form of Order

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,

Debtor.

Chapter 9

Case No. 13-53846

Hon. Steven W. Rhodes

ORDER

Having duly considered the Emergency Motion for Leave to Pursue Limited Discovery After the Court's April 11 Discovery Deadline (the "Motion") of the Official Committee of Retirees of the City of Detroit, Michigan ("Retirees") and being fully advised in its premises,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The Retirees have leave to serve:
 - a. one document request upon the City seeking the terms of the settlement with each retirement system, and
 - b. one document request upon the City seeking documents that support (or undercut) each such settlement, and
 - c. one document request upon the City seeking documents that support (or undercut) the City's allegations of retirement system malfeasance.

Exhibit 2: Notice of Motion by Official Committee of Retirees' Emergency Motion for Leave
to Pursue Limited Discovery After the Court's April 11 Discovery Deadline and Opportunity to Object

UNITED STATES BANKRUPTCY COURT
Eastern District of Michigan

In re:

CITY OF DETROIT, MICHIGAN

Chapter: 9

Case No.: 13-53846

Debtor(s)

Judge: Hon. Steven W. Rhodes

NOTICE OF MOTION BY OFFICIAL COMMITTEE OF RETIREES OF THE CITY OF
DETROIT, MICHIGAN FOR LEAVE TO PURSUE LIMITED DISCOVERY AFTER THE
COURT'S APRIL 11 DISCOVERY DEADLINE

PLEASE TAKE NOTICE that the Official Committee of Retirees of the City of Detroit, Michigan has filed papers with the Court seeking leave to serve three additional document requests upon the City of Detroit after the Court's April 11 discovery deadline.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant leave to the Official Committee of Retirees to serve three additional document requests upon the City of Detroit, or if you want the court to consider your views on the motion, **within 14 days**, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:¹

United States Bankruptcy Court
211 West Fort Street
Detroit, Michigan 48226

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above. All attorneys are required to file pleadings electronically.

You must also mail a copy to:

Matthew E. Wilkins, Brooks Wilkins Sharkey & Turco PLLC, 401 S. Old Woodward Avenue, Suite 400, Birmingham, MI 48009

Sam J. Alberts, Dentons US LLP, 1301 K Street NW, Suite 600, East Tower, Washington, DC 20005-3364

Evan Miller, Jones Day, 51 Louisiana Ave NW, Washington, DC 20001-2113.

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

¹ Response or answer must comply with F. R. Civ. P. 8(b), (c) and (e)

April 17, 2014

By: /s/ Carole Neville

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Exhibit 3: None [No brief required.]

Exhibit 4: Certificate of Service

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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In re	:	
	:	
	:	Chapter 9
CITY OF DETROIT, MICHIGAN,	:	
	:	
Debtor.	:	Case No. 13-53846
	:	
	:	Hon. Stephen W. Rhodes
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CERTIFICATE OF SERVICE

I, Carole Neville, hereby certify that the Official Committee of Retirees' Emergency Motion for Leave to Pursue Limited Discovery After the Court's April 11 Discovery Deadline was filed and served via the Court's electronic case filing and noticing system on April 17, 2014.

By: /s/ Carole Neville

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Exhibit 5: None [No affidavits filed in support of this Motion.]

Exhibit 6: None [No documentary exhibits filed in support of this Motion.]